

REMARKS/ARGUMENTS

The Applicant respectfully requests reconsideration of the present application in view of the above changes to the claims and the following remarks, which are responsive to the Office Action mailed May 13, 2008.

I. Status of the Claims

In the Office Action, Claims 1-16 were noted as pending in the application and were rejected. As a result of this response, Claims 8 has been canceled, new Claim 17 has been added, Claims 1-7 and 9-17 are pending, and Claims 1, 9-12 and 14-16 have been amended in order to further clarify the claimed invention.

II. Claim Rejections

a. 35 U.S.C. § 103(a)

In the Office Action, Claims 1, 5, 8, 10, 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,784,635 to McCallum (“*McCallum*”) (Office Action, page 2), and Claims 2-4, 6, 7, 9, 11-13 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *McCallum* in view of U.S. Publication No. 2004/0220836 to Doherty et al. (“*Doherty*”) (Office Action, page 4). For at least the following reasons, Applicant respectfully requests that the rejection of Claims 1-16 under 35 U.S.C. § 103(a) be withdrawn.

i. Independent Claims 1, 10, 12 and 14-16

Applicant respectfully asserts that neither *McCallum* nor *Doherty*, whether considered alone or in combination, teaches or suggests each of the recitations of independent Claim 1, 10, 12 or 14-16, as amended. In particular, independent Claims 1, 10 and 12 each recite, albeit in somewhat different language, a compressor that identifies one or more expired data points of a plurality of data points in a data store and creates or produces a summary associated with the one or more expired data points. Similarly, independent Claims 14-16 each recite, albeit in

somewhat different language, instructions for controlling a processor to identify one or more expired data points of a plurality of data points in a data store and to create or produce a summary of the expired data points. Applicant respectfully asserts that *McCallum* and *Doherty*, whether considered alone or in combination, both fail to teach or suggest at least this recitation of independent Claims 1, 10, 12 and 14-16.

McCallum is directed toward a “system and method for rationalizing physician data in which source data is collected from source computers located at, for example, physicians’ offices, hospitals, testing laboratories and pharmacies. (*McCallum*, Abstract). According to *McCallum*, “a database of information from various sources [is established] in a substantially universal and standardized format.” (*Id.* at 8:8-10). Using the database, “many different types of reports are available, depending upon the degree of sorting, merging, summarization, combination and other processing performed on the data.” (*Id.* at 8:14-18). One type of report disclosed is “summary reports” generated by processing “patient-independent characteristics of the data.” (*Id.* at 8: 24-25). In particular, the “data is first anonymized ... so that all information referring to a specific identifiable patient is redacted ... The ‘patient-blind’ information may then be aggregated, merged, sorted, combined and otherwise processed to create summary reports to users.” (*Id.* at 8:28-35).

It is the creation of these summary reports that the Examiner appears to rely on as teaching the compressor of Applicant’s independent Claims 1, 10 and 12, and the instructions for controlling the processor to create or produce a summary of Applicant’s independent Claims 14-16. (*See*, Office Action, page 4). Applicant respectfully submits, however, that *McCallum* does not teach or suggest first identifying expired data points of the plurality of data points in the data store, and then creating a summary of those expired data points. Accordingly, Applicant respectfully asserts that *McCallum* does not teach or suggest a compressor that identifies one or more expired data points of a plurality of data points in a data store and creates or produces a summary associated with the one or more expired data points, as recited, albeit in somewhat different language, in Applicant’s independent Claims 1, 10 and 12, or instructions for controlling a processor to identify one or more expired data points of a plurality of data points in

a data store and to create or produce a summary of the expired data points, as recited, albeit in somewhat different language, by Applicant's independent Claims 14-16.

Doherty likewise fails to teach or suggest the above-recitations of Applicant's independent Claims 1, 10, 12 and 14-16. In fact, the Office Action cites *Doherty* for different purposes. In particular, the Examiner cites *Doherty* as teaching "a system wherein said analyzer issues an alert if said metric satisfies an alertable condition" (Office Action, page 4), "a system wherein said alertable condition is selected from the group consisting of (a) a threshold-based condition, (b) an experience-based decision, and (c) a rule-based condition" (*Id.* at page 5), "a system wherein said metric is in the form of a data cube" (*Id.*), "a system wherein said metric is a first metric in the form of a first data cube having dimensions ..." (*Id.* at page 6), "a system further comprising a presentation sub-system for sending said first metric and said second metric to a user interface" (*Id.*), and "a system wherein said plurality of data points subsequent to being aggregated by said compressor are deleted from said data store" (*Id.* at page 7). Since both of the cited references fail to teach or suggest a compressor that identifies one or more expired data points of a plurality of data points in a data store and creates or produces a summary associated with the one or more expired data points, as recited, albeit in somewhat different language, in Applicant's independent Claims 1, 10 and 12, or instructions for controlling a processor to identify one or more expired data points of a plurality of data points in a data store and to create or produce a summary of the expired data points, as recited, albeit in somewhat different language, by Applicant's independent Claims 14-16, the cited references, even if combined, do not teach or suggest all of the recitations of independent Claims 1, 10, 12 or 14-16.

For at least the reasons discussed above, Applicant respectfully submits that independent Claims 1, 10, 12 and 14-16 are patentable over *McCallum* alone and further in view of *Doherty*. Applicant, therefore, respectfully requests that the rejection of independent Claims 1, 10, 12 and 14-16 be withdrawn.

ii. Dependent Claims 2-7, 9, 11, 13 and 17

Claims 2-7, 9 and 17; 11; and 13 depend, respectively, from independent Claims 1, 10, and 12 and include all of the recitations of their base claims and any intervening claims plus their additional recitations that further distinguish the art applied in the rejection. Thus, for at least the reasons set forth above with respect to independent Claims 1, 10 and 12, it is respectfully submitted that dependent Claims 2-7, 9, 11, 13 and 17 are further patentable over *McCallum* alone and further in view of *Doherty* as such dependent claims now depend from allowable base claims.

Appl. No.: 10/798,999
Amendment dated August 11, 2008
Reply to Office Action of May 13, 2008

III. Conclusion

In light of the remarks above, Applicant respectfully submits that the application is in condition for allowance and respectfully requests that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Jennifer F. Miller/

Jennifer F. Miller
Registration No. 56,278

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Atlanta Office (404) 881-7000
Fax Atlanta Office (404) 881-7777

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON August 11, 2008.